

AMENDED IN ASSEMBLY JULY 14, 2003

AMENDED IN ASSEMBLY JULY 2, 2003

AMENDED IN SENATE JUNE 3, 2003

AMENDED IN SENATE MAY 12, 2003

AMENDED IN SENATE MARCH 24, 2003

SENATE BILL

No. 354

Introduced by Senator Speier

February 19, 2003

An act to amend Section 11760 of, and to add Section 11661.8 to, the Insurance Code, and to amend Sections 138.6, 139.3, 4062, 4903, 5304, 5502, 5502.5, and 5703 of, to add Sections 4610, 4611, and 5814.3 to, to add Article 2.3 (commencing with Section 4615) to Chapter 2 of Part 2 of Division 4 of, to add and repeal Section 4612 of, to repeal Sections 4614 and 4614.1 of, and to repeal and add Section 4604 of, the Labor Code, *act* relating to workers' compensation insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 354, as amended, Speier. Workers' compensation.

Existing law provides that an injury of an employee arising out of and in the course of employment is generally compensable through the workers' compensation system.

This bill would state the intent of the Legislature to improve the workers' compensation system by promoting the efficient delivery of high quality appropriate medical care.

~~(1) Existing law provides that it is unlawful to knowingly make specified false or fraudulent statements in connection with obtaining~~

~~compensation under or reducing the premium or cost of a workers' compensation insurance policy. Existing law specifies a maximum fine of \$50,000 for a violation of these provisions.~~

~~This bill would raise the maximum fine for a violation of these provisions to \$100,000.~~

~~(2) Existing law prohibits a physician from referring a person for specified goods or services if the physician or his or her immediate family has a financial interest with the person or in the entity that receives the referral. A violation of this provision is a crime.~~

~~This bill would add referrals for services provided by outpatient surgical centers, as defined, to the referrals subject to this prohibition. By changing the definition of a crime, this bill would impose a state-mandated local program.~~

~~(3) Existing law requires the Administrative Director of the Division of Workers' Compensation, in consultation with the Insurance Commissioner and the Workers' Compensation Insurance Rating Bureau, to develop a cost-efficient workers' compensation information system.~~

~~This bill would require the administrative director, by interagency agreement or by contract, to develop and maintain a system, using workers' compensation system data, for the purpose of monitoring and improving the quality and cost-effectiveness of health care services delivered to injured workers, and to report to the Legislature by July 1, 2004, on the plan for implementation and status of this system. It would also require the administrative director and the Commission on Health and Safety and Workers' Compensation, until the system is implemented, to conduct a review of certain data submitted by the State Compensation Insurance Fund and to report their findings and recommendations to the Legislature.~~

~~(4) Existing law establishes procedures with respect to disputes between employers and employees regarding the compensability of the injury and the extent and scope of medical treatment for that injury.~~

~~This bill, on and after July 1, 2004, would establish an independent medical review and appeal processes for purposes of resolving disputed medical treatment services, as defined, and would make conforming changes. The bill would require the Division of Workers' Compensation, by March 1, 2004, to contract with one or more independent medical review organizations to conduct these independent medical reviews, and would specify procedures relating to hearings, continuances, and receipt of evidence in connection with~~

~~these independent medical reviews. Failure by an employer to implement decisions pursuant to the independent medical review would subject the employer to an administrative penalty of not more than \$5,000.~~

~~(5) Existing law generally regulates the terms of workers' compensation insurance policies.~~

~~This bill, on and after February 1, 2004, would prohibit an employee, until the division enters into the above contract with independent medical review organizations, from obtaining more than 15 one-hour visits to a chiropractor or physical therapist in connection with any work-related injury, unless the employee has obtained the approval of the insurer or self-insured employer or there has been an independent medical review conducted by the Department of Managed Health Care.~~

~~This bill would require every employer to establish a utilization review process, either directly or through its insurer or entity with which an employer or insurer contracts for these services, in accordance with specified criteria, and would authorize the administrative director to assess administrative penalties for failure to meet certain requirements. It would also require every employer, insurer, or entity with which an employer contracts for utilization review services to establish and maintain a utilization review appeals process by which employees may appeal any authorization of medical treatment based upon medical necessity in an admitted claim.~~

~~(6) Existing law limits the amount of fees payable to medical providers under contracts with the employee's health benefit program for health care services rendered to employees.~~

~~This bill would repeal those provisions. The bill would also authorize the establishment of a 6-year pilot project whereby an employer may contract with a health care organization to be the exclusive provider of all health coverage for occupational and nonoccupational injuries and illness incurred by its employees, and would specify the coverages to be provided by participating health care organizations.~~

~~(7) Existing law authorizes the Workers' Compensation Appeals Board to determine, and allow as liens against any sum to be paid as compensation, certain specified amounts for various expenses.~~

~~This bill would prohibit any lien against any sum paid as compensation, on and after July 1, 2004, from being allowed by the appeals board if certain conditions exist relating to the utilization review process or independent medical review process.~~

(8) Existing law provides that when payment of compensation has been unreasonably delayed or refused, either prior to or subsequent to the issuance of an award, the full amount of the order, decision, or award shall be increased by 10%.

This bill would specify that the above provision would not apply to payments for medical treatment that are subject to utilization review or independent medical review when the medical treatment is appealed by an insurer to the appeals board and the appeals board upholds the appeal. It would provide that in such a case, the appeals board may order the insurer to take specified actions in connection with the order of the appeals board, and would authorize the division to impose penalties on an insurer for nonconformance with the order.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no. State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 11661.8 is added to the Insurance Code,~~
 2 SECTION 1. *It is the intent of the Legislature to improve the*
 3 *workers' compensation system by promoting the efficient delivery*
 4 *of high quality appropriate medical care.*

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7 **All matter omitted in this version of the**
8 **bill appears in the bill as amended in the**
9 **Assembly, July 2, 2003. (JR 11)**
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